

Message Text

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TO SECSTATE WASHDC 8885

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E.O. 11652: N/A

TAGS: PGOV, WB, GW

SUBJECT: ABORTION LAW PROBLEM

REFS: (A) STATE 47489; (B) BERLIN 361; (C) BONN'S 3343

1. AT BONN GROUP MEETING MARCH 20, FRG REP (KASTRUP) DISTRIBUTED PAPER SUMMARIZING DISCREPANCIES IN FRG AND BERLIN LAW CREATED BY ENACTMENT IN FRG OF ABORTION REFORM LAW, AS MODIFIED BY FEDERAL CONSTITUTIONAL COURT (FCC) DECISION OF FEBRUARY 25, 1975, AND CONTINUATION IN EFFECT IN WSB OF OLD ABORTION LAW. HE POINTED OUT THAT THE DISCREPANCIES MEANT THAT CERTAIN ACTIONS NOW LEGAL IN THE FRG REMAIN ILLEGAL IN THE WSB AND NOTED THAT ANY INTERIM INSTRUCTIONS ISSUED BY BERLIN JUSTICE SENATOR ADMINISTRATIVELY TO MINIMIZE DISCREPANCIES ARE EXTRA-LEGAL AND NOT SOLUTIONS OF PROBLEM.

A NEW LAW WOULD NOT BE ENACTED BEFORE SOMETIME IN 1976. GOING BEYOND THIS CONCRETE AND ESPECIALLY URGENT CASE, THE QUESTION WAS RAISED HOW IT LIMITED OFFICIAL USE

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COULD BE ENSURED THAT THE EFFECTS OF FCC DECISIONS ALSO

APPLY IN THE WSB AND THAT LEGAL UNITY CAN BE ENSURED. THE FRG REPS URGED THAT THE POLITICAL IMPORTANCE WITHIN THE FRG OF LEGAL UNITY BE RECOGNIZED, BEING TIED CLOSELY TO THE VIABILITY OF BERLIN. REFERRING TO LONG-STANDING COMMON EFFORTS IN BERLIN TO RESOLVE THIS IMPENDING PROBLEM, AND THE DIFFICULTIES RAISED BY THE FRENCH, KASTRUP ASKED FOR ALLIED VIEWS ON HOW THIS POLITICAL-LEGAL PROBLEM COULD BE RESOLVED.

2. THE FRENCH REP (BOISSIEU) REVIEWED THE FRENCH POSITION SUMMARIZED IN REFTEL (C), INCLUDING THE EXISTING FREEDOM OF THE BERLIN HOUSE OF REPS TO ENACT ANY LEGISLATION IT WISHES INCLUDING ABORTION LEGISLATION AS ENACTED IN THE FRG AND MODIFIED IN ITS APPLICATION BY THE FCC DECISION; THE UNACCEPTABLE IMPLICATION CREATED BY AN UNNECESSARY AUTHORIZING BK/O THAT THE ALLIES RECOGNIZE THAT THE BERLIN HOUSE OF REPS IS, IN THE ABSENCE OF SUCH A BK/O, NOT ENTITLED TO EXERCISE SUCH FREEDOM; AND THE DUBIOUS WISDOM OF CONFIRMING BY BK/O SOVIET SUSPICIONS THAT BERLIN LAWS ARE MERELY FRG LEGISLATION COMPULSORILY TAKEN OVER BY BERLIN AUTHORITIES. HE SAID PROBLEM NOT AN ALLIED ONE BUT A GERMAN ONE; GERMAN AUTHORITIES IN BOTH FRG (BY MEANS OF ACTION BY BUNDESTAG) AND IN BERLIN (HOUSE OF REPS MAY PASS NECESSARY LEGISLATION) HAVE MEANS TO RESOLVE SITUATION. BOISSIEU INDICATED THAT HIS INSTRUCTIONS WERE TO REFUSE ANY KIND OF BK/O, AND THAT ANY BK/L LANGUAGE THAT MIGHT BE ACCEPTABLE TO PARIS WOULD PROBABLY NOT BE ACCEPTABLE TO THE FRG/

3. US REP STATED THAT US WAS MORE FLEXIBLE THAN FRENCH ON THIS QUESTION AND WOULD SUPPORT WHATEVER SOLUTION COULD BE AGREED BY FRENCH AND GERMANS TO SOLVE PROBLEM. UK POSITION WAS SIMILAR.

4. KASTRUP CONCLUDED DISCUSSION BY NOTING DIVERGENCE OF LEGAL VIEWS, FEDERAL GOVERNMENT NOT BEING ABLE TO SHARE FRENCH VIEW THAT BERLIN HOUSE OF REPS IS FREE TO ENACT WHATEVER LEGISLATION IT WISHES. HE APPEALED FOR AN EFFORT TO RESOLVE THIS MATTER BY COMPROMISE WHICH LIMITED OFFICIAL USE

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WOULD BRIDGE THESE DIVERGENT POSITIONS, EMPHASIZING THAT FOR THE FRG THE MATTER IS AN URGENT POLITICAL ONE AND THAT THE CURRENT DISCREPANCIES IN FRG AND WSB LAW ARE REAL.

5. COMMENT: EMBASSY DOES NOT SEE MUCH HOPE OF MOTION UNLESS THE FRG ONCE MORE RAISES THIS MATTER WITH QUAI IN A MORE CONVINCING EFFORT THAN THAT MADE

BY VAN WELL (SEE BONN 3366).
HILLENBRAND

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